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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Request of

CELLULAR TELECOMMUNICATIONS
INDUSTRY ASSOCIATION

For Declaratory Ruling and
Amendment of the Commission's
Policies and Rules Pertaining to
the Regulation of Cellular Carriers

RM-8179

To: The Commission

COMMENTS OF TELOCATOR

Telocator, the Personal Communications Industry Association, hereby submits its comments in support of the Request for Declaratory Ruling and Petition for Rulemaking ("Petition") filed by the Cellular Telecommunications Industry Association ("CTIA") on January 19, 1993.¹ Telocator urges the Commission to grant CTIA's request that cellular carriers be officially designated as non-dominant for purposes of applying any federal tariffing requirements that may ultimately attach under the D.C. Circuit's decision in American Telephone and Telegraph Company v. Federal Communications Commission.²

Telocator intends to file comments on the Commission's pending Notice of Proposed Rulemaking in which the agency

¹ See Public Notice, Report No. 1927 (February 17, 1993).

² No. 92-1053, slip op. (D.C. Circuit November 13, 1992).

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tentatively concludes that the existing rules governing non-dominant carrier tariffing filings ought to be further streamlined to remove unnecessary regulatory burdens and to minimize disruption of the existing competitive marketplace for non-dominant carrier services.³ In order to achieve those laudable objectives with respect to the marketplace for cellular services, the FCC must first find those carriers to be non-dominant. As CTIA has shown, such a finding would be

improvements in landline telephony continue to increase choices for subscribers.

Significantly, the Commission has consistently found carriers to be non-dominant even in market situations that may be less competitive than that of cellular. For example, the FCC concluded that the MSS operator is non-dominant even in a monopoly license situation because of the existence of substitutable services.⁴ It has also tentatively found LMDS licensees opting for common carrier status to be non-dominant in a duopoly market.⁵

Equally importantly, application of the dominant carrier tariffing rules in cellular markets would have a pernicious effect on existing competition to the detriment of the public. The revelation of proprietary cost data and the public filing of all details concerning service offerings would inhibit market responsiveness. The filing periods and other restrictions attendant to tariffs likewise would unreasonably delay the implementation of whatever service innovations could still be justified. As such, a failure on the part of the Commission to declare cellular carriers to be non-

⁴ See Land Mobile Satellite Service, Second Report and Order, 2 FCC Rcd 485, 490 (1987) (subsequent history omitted).

⁵ See Local Multipoint Distribution Service, Notice of Proposed Rulemaking, FCC 92-538 (rel. Jan. 8, 1993), ¶ 27.

dominant would run directly counter to its consistently strong, pro-competitive public interest policies.

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of March, 1993, I caused copies of the foregoing "Comments of Telocator" to be mailed via first-class postage prepaid mail to the following:

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